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December 3, 2021

VIA ECF

Honorable Susan D. Wigenton
United States District Judge
Martin Luther King, Jr. Federal Building
& United States Courthouse
50 Walnut Street
Newark, New Jersey 07102

**Re: *United States v. Daibes and McManus*
Criminal No. 18-655-SDW**

Dear Judge Wigenton:

I write on behalf of all parties to the above-captioned matter, with a proposed schedule for future proceedings in this matter, in light of yesterday's conference call with Your Honor. This schedule assumes that this matter will go forward, as the Court ordered, on January 11, 2022. As noted at the conclusion of the letter, we would respectfully ask that the Court consider a very slightly adjustment to the trial schedule – albeit with jury selection proceeding on January 11, as Your Honor indicated was required, as we all understand.

That said, the parties have expeditiously met and conferred, as Your Honor directed, following yesterday's conference and, most respectfully, we would jointly propose the following schedule leading up to trial:

- The Government will provide its pre-marked Exhibits and any notices under Federal Rule of Evidence 404(b)(3) on or before December 10, 2021 (subject to providing any additional materials thereafter to the extent that circumstances warrant because such information is not known or in the possession of the Government at that time);
- The Government will provide the bulk of materials to be disclosed under the Jencks Act, 18 U.S.C. § 3500, including grand jury material and FBI 302s or similar reports, on or before December 15, 2021, subject to supplementation on a rolling basis for approximately two (2) weeks thereafter;
- The Defendants will provide their pre-marked Exhibits on or before December 17, 2021;
- The Government will provide any proposed stipulations on or before December 23, 2021;
- The parties will file any cross motions *in limine* on or before December 23, 2021;

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- The parties will file any responses to the other side's *in limine* motions on or before December 31, 2021;
- The Court may set a date for argument on *in limine* motions that is convenient for the Court prior to the commencement of trial;
- The parties will submit a joint *voir dire* request and joint request for preliminary jury instructions to the Court on or before January 7, 2022;
 - The Defendants will provide their proposed *voir dire* to the Government on or before January 5, 2022, after which the parties will meet and confer in an effort to come to an agreement with regard to the proposed *voir dire* to be submitted to the Court (with any disagreement between the parties noted, for the convenience of the Court);
 - The Government will provide its proposed jury instructions to the defense on or before January 5, 2022, after which the parties will meet and confer in an effort to come to an agreement with regard to the proposed jury instructions to be submitted to the Court (with any disagreement between the parties noted, for the convenience of the Court).

As the Court can see, this is a very compressed schedule, both for the Court and for the parties. The Government and the Defendants regret, and take full responsibility for any inconvenience to Your Honor resulting from that schedule and most respectfully propose a modest alternative that may allow the parties to more fully prepare and Your Honor to work with us with regard to any pretrial rulings on a somewhat less hurried schedule. That alternative would be that the jury would be selected, as scheduled, on January 11, 2022 (and into the next day, if necessary), which we understand to be the only date on which that can occur; the trial would start with openings one week after (Tuesday, January 19, 2022, the day after the Martin Luther King, Jr. holiday). During that time period, the Court could, if it wishes, adjudicate any outstanding disputes, as set forth above. The parties' view is that this would not disrupt the Court's schedule, in part because we understand from yesterday's conference that Your Honor allocated four weeks for trial and, while it is always difficult to predict, we believe that the trial can be completed within three weeks (though, of course, we cannot guarantee that, especially with winter weather, for example). We hope that this schedule, which would be of assistance to the parties and we hope to the Court, will be satisfactory to Your Honor as well.

All parties stand ready and willing to discuss this further with the Court at Your Honor's convenience, or otherwise to discuss this schedule.

Respectfully submitted,



Lawrence S. Lustberg

cc: All counsel of record (*via ECF*)